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November 16, 2016

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VIA ELECTRONIC FILING

Honorable Jed S. Rakoff
United States District Judge
United States District Court for the
Southern District of New York
500 Pearl Street, Courtroom 14-B
New York, New York

Re: *Free Country LTD v. Brian Drennen, et al*
16-CV-8746 (JSR)

Dear Judge Rakoff:

My firm represents the Plaintiff Free Country Ltd (“Free Country” or “Plaintiff”). As you will recall, the parties appeared before Your Honor on November 15, 2016 in connection with Free Country’s Order to Show Cause seeking the continuation of a temporary restraining order that was initially granted on November 10, 2016 (the “TRO”).

At Your Honor’s instruction, Plaintiff’s counsel was directed to draft a revised proposed TRO Order (the “Revised TRO”), reflecting the various rulings made by the Court during yesterday’s hearing and to circulate the Revised TRO to counsel for Defendants. The parties have all conferred and agreed, and present the court with the Revised TRO, a copy of which is attached hereto.

Your Honor further directed the parties to identify a neutral forensic arbitrator, absent which the Court would so appoint one. The parties have conferred and have agreed, subject to

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the completion of a conflicts search, upon Robert Knudsen of Global Digital Forensics. Attached hereto, please find the *curriculum vitae* of Mr. Knudsen.

Respectfully submitted,

/s/ Felicia S. Ennis

cc: Harlan Mitchell Lazarus, Esq. (*via* ECF)
Peter George Siachos, Esq. (*via* ECF)
Joanna Marie Doherty, Esq. (*via* ECF)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FREE COUNTRY LTD,

Plaintiff,

-against-

BRIAN DRENNEN, MATTHEW VANDER
WYDEN, ROUSSO APPAREL GROUP, INC.
and SANTA FE APPAREL, LLC,

Defendants.

Civil Case No.: 16 CV 8746 (JSR)

**ORDER GRANTING IN PART
PLAINTIFF’S MOTION FOR
TEMPORARY RESTRAINING
ORDER**

This matter having come before the Court pursuant to Fed. R. Civ. P. 65(b) on the motion of Plaintiff Free Country Ltd (“Free Country” or “Plaintiff”), for a temporary restraining order and preliminary injunction, and this Court having granted a temporary restraining order *ex parte* on November 10, 2016, and upon consideration of the motion papers in support, and oral argument at the hearing held on November 15, 2016, by counsel for Plaintiff and counsel for Defendants Brian Drennen (“Drennen”) and Matthew Vander Wyden (“Vander Wyden”), and counsel for Defendants Roussou Apparel Group, Inc. (“Roussou”) and Santa Fe Apparel, LLC (“Santa Fe”) (collectively, the “Defendants”), this Court hereby modifies the November 10, 2016 temporary restraining order as follows:

1. **ORDERED**, that sufficient reason having been shown therefor, the following temporary restraints and injunctions shall be in effect, pending the conclusion of the evidentiary hearing, currently scheduled for December 5 and 7, 2016 regarding Plaintiff’s application for a preliminary injunction pursuant to Rule 65 of the Fed. R. Civ. P.:

- a. The Defendants, and all persons acting directly or indirectly with them, are temporarily restrained and enjoined from destroying, or disposing of any evidence or other materials, in any form, relating to this action and the issues raised herein, including, without limitation, all devices, electronic media, cloud storage, and all copies of any and all documents, media and/or other materials, containing, identifying, describing, reflecting or referencing Free Country's confidential, proprietary, or trade secret information, and any and all documents, data and information which was obtained by Drennen or Vander Wyden from, or by virtue of their employment with Free Country, including all current or archived media, emails, chats, texts, documents, electronic logs, metadata, storage and directories. Plaintiff shall preserve the images of the hard drives taken from the laptop computers used by Defendants Drennen and Vander Wyden during their employment with Plaintiff.
- b. the Defendants, and all persons in active concert or participation with them, are temporarily restrained and enjoined from accessing, disclosing, making available to any person or entity, or using any of Free Country's confidential, proprietary, or trade secret documents or information;
- c. Defendants Drennen and Vander Wyden and those acting directly or indirectly with them, are restrained and enjoined from violating their confidentiality agreement obligations to Free Country, including without limitation the portions of their agreements prohibiting the use or disclosure of Free Country's confidential, proprietary, or trade secret information;

d. Drennen, and all those persons acting directly or indirectly with him, is directed (i) to deliver immediately to Free Country, all copies of all documents, materials and other media, whether in paper form or in an electronic medium, containing Free Country's confidential, proprietary, or trade secret information to the extent that he possesses or has such information in his possession, custody or control, and (ii) Drennen is directed to immediately identify all cloud data storage accounts along with the user names and passwords for such accounts which were used in any way to transfer the Plaintiff's Confidential Information, to a neutral forensic expert to be agreed upon by the parties or if the parties are unable to agree, by the Court, for a forensic review as set forth in paragraph 4 hereof; and it is further

2. **ORDERED** that Defendants Drennen and Vander Wyden and all those persons acting directly or indirectly with them, are restrained and enjoined from, directly or indirectly, soliciting, continuing to solicit, initiating contact with, or accepting business from any of Free Country's customers identified in the Confidential Information, unless and until Drennen and Vander Wyden establish to Free Country that such customer contact information was in Drennen or Vander Wyden's possession at a time prior to the commencement of one or the other of Drennen or Vander Wyden's employment at Free Country. Absent Free Country's satisfaction of the foregoing, to be provided or declined by Free Country by the close of business on the next business day following delivery to Free Country of the customer contact information, Drennen and Vander Wyden are restrained and

enjoined from any such customer contact as described herein until the Court resolves the dispute by telephonic conference; and it is further

3. **ORDERED** that Defendants Rouso and Santa Fe are not enjoined from soliciting, continuing to solicit, initiating contact with, or accepting business from any customers, existing or future, unless Plaintiff establishes to Rouso and Santa Fe's satisfaction that any such customer contact is a result of direct or indirect access to Free Country's Confidential Information. If any dispute arises between the parties concerning whether such customer contact emanates from Free Country's Confidential Information, Rouso, Santa Fe and/or all affiliated entities or individual directly or indirectly acting on their behalf are not enjoined and such dispute shall be resolved by the Court by telephonic conference or otherwise as the Court directs; and it is further
4. **ORDERED** that sufficient cause having been shown, the Court orders expedited discovery of all parties, and that Defendant Drennen shall pursuant to Rule 34 of the Fed. R. Civ. P. permit inspection, by a neutral forensic expert agreed upon by the parties or appointed by the Court, such cost to be divided evenly between Plaintiff and Defendants, of any cloud storage account or any other devices, including but not limited to any laptop computer, desktop computer, mobile phone, tablet or other device subject to the Court's direction, and Drennen shall provide the login credentials necessary to access same, to determine whether the Confidential Information contained in Drennen's Dropbox account was transferred or downloaded to any electronic device not owned and/or controlled

by Free Country, and that such forensic expert shall report his or her findings to the Court *in camera* for further proceedings; and it is further

5. **ORDERED**, that Defendants and each of them shall preserve, and take steps to prevent the automatic or intentional deletion or modification of, all databases, cloud storage accounts including Dropbox, electronic files, text messages, emails, Facebook and any other social media communications, media, hard drives, cell phones, and computer hard drives that may contain information related to this action and Plaintiff shall preserve the images of the hard drives taken from the laptop computers used by Defendants Drennen and Vander Wyden during their employment with Plaintiff; and it is further
6. **ORDERED** that this order shall remain in effect until the determination by this Court of Plaintiff's application for a preliminary injunction.

Dated: New York, New York
November __, 2016

Hon. Jed. S. Rakoff, USDJ

Robert Knudsen – Northeast Regional Manager, Global Digital Forensics

Experience Highlights: Computer forensics and cyber security specialist, possessing a unique blend of skills and experience ranging from law enforcement to the world of technology, which are both highly relevant in today's computer forensics, electronic discovery and cyber security arenas. Mr. Knudsen has 8 years of experience in the field of computer forensics, where he has conducted hundreds of computer forensics examinations in support of matters in federal and state courts throughout the United States. Prior to his computer forensics career, he spent 8 years as a field technician and then as a manager, supporting hundreds of end users working at approximately 50 companies in multiple businesses and environments as they performed their day-to-day computer and network operations. Before entering the computer field, he spent twenty years in law enforcement as a police officer in the New York City Police Department, where, among other duties, he compiled crime statistics in a proprietary database which he designed and deployed. With Global Digital Forensics he has been instrumental in numerous cases not only for his technological and analytical prowess and expertise, but also as an expert witness on a wide range of criminal and civil matters. Mr. Knudsen has also led cyber security and incident response teams, in both penetration testing and vulnerability assessment capacities, as well as the detailed reporting and remediation of cyber events for organizations ranging from government agencies and high profile corporate entities, to healthcare, education and financial institutions.

Labor Category: Northeast Regional Manager, Certified Computer Forensic Examiner, Cyber Security Specialist

Knowledge of Systems and Applications:

- **EC Council**
Computer Hacking Forensic Investigator
- **International Society of Forensic Computer Examiners**
CCE – Certified Computer Examiner
- **CompTIA**
Security+ - Covers preventative maintenance, basic networking, installation, troubleshooting, communication and professionalism
- **CompTIA**
Network+ - Covers managing, maintaining, troubleshooting, operating and configuring basic network infrastructure
- **CompTIA**
A+ - Covers preventative maintenance, basic networking, installation, troubleshooting, communication and professionalism
- **Microsoft**
MCP Microsoft Certified Computer Professional
- **Microsoft**
MOUS Microsoft Office User Specialist

Technical Skills, Training, and Certifications:

- Xways Forensics Training
- ISFCE / CCE Re-certification
- In service training - Global Digital Forensics
- EC Council Computer Hacking Forensic investigator
- NIST Computer Forensic Seminar
- Key Computer Services Certified Computer Examiner Training Course

- CISSP Training
- Westchester Community College, New York -Adult Education Program, Visual Basic 6.0
- Professional Career Development Institute, Georgia
- Visual Basic 4.0 Programming for Windows
- Professional PC Repair Program

Expert Testimony and Affidavits on Computer Forensics

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| • Nassau County Criminal Court
PSNY v Sullivan | 2016 |
| • Nassau County Family Court
Daly v Sullivan | 2016 |
| • Suffolk County Supreme Court, 10th District
Trinity Christian Center of Santa Ana, Inc. V. Koper | 2016 |
| • United States District Court, Eastern District of New York
United States v Djibo | 2015 |
| • Massachusetts, Middlesex County Superior Court
Lynn Schultz v Unisphere/Colpitts | 2014 |
| • New York Supreme Court
Chan v Chuen | 2014 |
| • Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County
McLeoud v McLeoud | 2012 |
| • New York Supreme Court
Benson v Benson | 2010 |
| • Suffolk County Probation Hearing
C/O Safran | 2010 |
| • United States District Court, State of Utah
Clearone v Wideband | 2008 |
| • Nassau County Supreme Court
C/O Searchhelp | 2008 |
| • Nassau County Supreme Court
C/O Finkleman | 2008 |
| • United Stated District Court, State of Mississippi
JT Shannon | 2008 |

CHRONOLOGICAL EXPERIENCE

2006 – Present

Global Digital Forensics

Northeast Regional Manager

Responsible for day to day operations of GDF forensics lab in White Plains, NY and to oversee and/or perform all associated technical, managerial and support duties, which include:

- Chain of custody evidence handling, analysis and direct communication with counsel regarding case findings
- Response to security incidents, including health organizations and government facilities
- Examination of identified malicious software, such as bots, worms, and Trojans

- Analysis of malware to understand the nature of the threat and payload. This task usually involves reverse-engineering the compiled executable and examining how the program interacts with its environment
- Responsible for documenting and testing of malware in a virtual environment and to make security recommendations to clients based on the overall threat to remediate issues and prevent re-infection
- Acquisition of computer hard drives and server systems using Logicube Talon, Image Master Solo, FTK Imager and GDF Collector (proprietary tool tailored for intrusion analysis)
- Utilized numerous forensic and security based tools including Access Data Forensic Toolkit, Encase, X-Ways, ProDiscover, Sysinternals, Wireshark
- Monitored network traffic using netflow data, packet and session level inspection (Fidelis XPS)
- Review of firewall rulesets and security recommendations work directly with security teams and management during engagements to review and prepare recommendations for organizational policies
- Work directly with security teams and management during engagements to review and prepare recommendations for organizational policies

2002 – 2006

Real-Time Computer Services

Client Service Coordinator Management

Led a team of six IT field technicians supporting client networks located in New York City and Westchester County. Responsibilities included:

- Initial response to client requests and remote desktop and network support when applicable
- Project management for network upgrades, implementations and office move
- Managing and prioritizing client-wide database, and assisting in the planning and execution, while keeping focus on security vulnerabilities
- Submitting written and verbal status reports to CEO
- Imaging computer systems using Norton Ghost, versions 7 through 9, including corporate data management of client PC images for archive, back up and data recovery. Educated clients related to virus and email hoaxes, social engineering and phishing
- Processing and reviewing data submitted from field technicians related to server and firewall event logs
- Coordinating the review and roll out of security patches
- Following up with SANS, Internet Storm

1982 – 2002

New York City Police Department

New York City Police Officer

- 200 career felony arrests necessitating;
- Victim and perpetrator interviews, chain of evidence handling, direct interaction with District Attorney's office and court testimony
- Crime Analysis, Comp stat preparation – 3 years
- Worked closely with supervisors to develop information systems based on user requirements and scheduled weekly department strategy meetings, and updated members related to current informational trends
- Facilitated the identification and investigation of crime patterns, designed and implemented the Major Crimes Database for the New York City Police Department. Report preparation time was reduced from three days to one. Awarded a unit citation for innovative crime reduction analysis and strategies

Canine Program, Bloodhound Handler – 5 years

- Responsible for the training and maintenance of man trailing bloodhound. Crime scene response/evidence collection. Conducted searches for missing/lost people
- Presented lectures for Management/Investigators in the use of Police Canines as an investigative tool
- Special Operations Division 1 year
- Street Crime Unit – 5 years City-Wide Anti-Crime Patrol, decoy operations, undercover
- Uniformed Police Officer – 3 years